

ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING/PUBLIC HEARING
MEETING MINUTES
MARCH 1, 2006

The meeting was called to order at 7:30 p.m.

Members Present: Peter Hillman, Chairman, Susan Cameron, Pete Kenyon, Craig Flaherty, Reese Hutchison, Ellen Kirby

Staff Present: Richard Jacobson, David Keating

Minutes of February 1, 2006.

The Commission discussed changes and amendments to the February 1, 2006 minutes. A motion was made by Mr. Kenyon to approve the minutes as amended. The motion was seconded by Mr. Hutchison and passed unanimously.

Discussion regarding the Darien High School Project, EPC-49-2001, 80 High School Lane.

The Commission had a discussion with Mr. Joe Canas regarding the Darien High School project. Mr. Canas informed the Commission that the High School Building Committee had instructed the contractor to comply with the erosion and sediment control plan including silt fence, mulching, disturbed areas, and anti-tracking pads. Mr. Canas told the Commission that he received a letter from the contractor stating that no sediment has left the area and that the area behind the curb has retained the sediment. Mr. Canas showed them the photographs taken by Susan Cameron and explained the need to set a good example because this is a Town project. He met with Mr. Jerry Nielsen and was instructed to send his comments to the owners rep, John Ryan. He also faxed the report to Dave Keating.

The Chairman asked Mr. Canas for recommendations for the future. Mr. Canas suggested the Commission write a letter to the Building Committee, Mr. Maglathlin and Mr. Ryan. The Chairman directed staff to draft a letter to the Building Committee and send it to Sue Cameron for review.

Ms. Cameron asked Mr. Canas when fines come into play. Mr. Canas suggested that possibly after seven days, but there is a legal question whether that is possible.

Mr. Flaherty asked Mr. Canas what can be done on the site at this time and before spring. Mr. Canas replied that the mulching and the anti-tracking pad were most important. He said the work that is left involves the grading and top soiling of the athletic fields and construction of the sidewalks. He said the erosion and sediment controls are not adequate for the remainder of the project.

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Mr. Flaherty stated that it was ridiculous that the contractor is not in compliance with the Permit or the contract signed with the Board of Education. There are two acres of exposed earth on the project. The Chairman directed the staff to issue a violation order in addition to the letter to the Building Committee.

Referrals from the Planning and Zoning Commission

Chairman Hillman commended Mr. Lewis for an excellent referral letter on 136 Pear Tree Point. Ms. Cameron and Mr. Flaherty will review the new referrals with Mr. Jacobson and send recommendations to Planning and Zoning.

Old Business:

Chairman Hillman read the first agenda item:

EPC 107-2005, John R. Mastera, Architect, AIA, on behalf of Thomas & Joanne Woodring, 11 Edgehill Drive, Proposing to construct additions and alterations to the existing residence and perform related site development activities within a regulated area. The subject property is located on the south and east sides of Edgehill Drive approximately 450 feet east of its intersection with Searles Road, and is shown on Assessor's Map #67 as Lot #38.

Chairman Hillman suggested adding standard language to all permits asking owners to maintain permit documents and bring them to the attention of any new owners because the obligations continue even if the ownership changes. The Commission also discussed the possibility of putting permits on the Land Records in the future. A motion was made to approve the application by Ms. Cameron, and seconded by Mr. Kenyon. The motion passed 5-1. Mr. Hillman, Ms. Cameron, Mr. Hutchison, Ms. Kirby, Mr. Kenyon in favor. Mr. Flaherty was opposed.

Chairman Hillman read the next agenda item:

EPC 8-2006, Wilder Gleason Esq. on behalf of Douglas R. & Rebecca A Munro, 102 Rings End Road, proposing to connect to the Town sanitary sewer and associated earth disturbance, a portion of which will be within 100 feet of Gorham's Pond. The subject property is located on the south side of Rings End Road approximately 300 feet west of the intersection of Rings End Road and Goodwives River Road and is shown on Tax Assessor's Map #51 as Lot #1 and 2.

The Commission decided to put this application on the March 1st agenda so that Mr. Gleason can be present.

Motion to approve the application by Mr. Hillman, second by Mr. Kenyon. Application was approved unanimously.

Mr. Gleason questioned whether the Commission is taking jurisdiction within 100 feet of the water on the southeast side of the property. The Commission decided they are not making a

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decision on jurisdiction at this time. Their decision is based on the 100 foot regulated area from Gorham's Pond. The Commission may, at a future date, decide to exercise jurisdiction based on additional scientific discussions regarding the nature of the definition of a watercourse.

Chairman Hillman read the next agenda item:

EPC 13-2006, Stearns & Wheeler Inc. on behalf of Michael and Seana Turner, 47 Knollwood Lane. The applicant proposes connecting to an existing storm drain in Knollwood Lane to alleviate a flooded foundation. A small portion of the excavation in the Road is within 50 feet of a watercourse. The subject property is within Knollwood Lane 55 feet west of the watercourse and approximately 800 feet west of Mansfield Avenue.

Representing the applicant were Mr. Gary Dufel of Stearns & Wheeler, the owner Seana Turner, Mr. Jock Bigosinski, Architect, and Susan Kipp, Builder. Mrs. Turner made a presentation and provided the Commission with a letter outlining her presentation. Chairman Hillman commended the applicant for her presentation.

Mr. Flaherty asked if the new galleries for the roof leaders will have an overflow. Mr. Dufel said yes. He asked if the sump pump will bypass the galleries. Mr. Dufel answered yes.

Ms. Cameron asked if the new catch basin will have an oil and grit separator. Mr. Dufel responded that the design of the catch basin will have a deep sump. He said the water which flows off the Turner property will be directed through the galleries. Ms. Cameron asked if the Town will be required to maintain the catch basins and remove the sand. Mr. Flaherty stated that catch basin technology has not changed considerably in recent years. Standard catch basins with sumps will require maintenance. He believed the Town will be better served by adding grit chambers nearer to the outfalls on a Town wide basis and that the grit chamber in this location is not warranted.

Ms. Cameron asked if bigger homes are creating more drainage to town systems. Mr. Keating stated that the position of Mr. Steeger and the Public Works Department is that the roads are designed for street runoff, not homes, but that runoff from private property must still be accommodated. The Town will require in the future to do more to address this issue. Chairman Hillman suggested that this should be a subject for future discussion between the EPC and the Public Works Department.

Mr. Hutchison asked about the height of the basement and whether they could pour additional concrete to alleviate the flooding problem. Mrs. Turner responded that the new addition is lower than the existing house and therefore the basement floor is lower. She stated that there would still be no guarantee that they would not have water in the basement. Mr. Hutchison asked if they are considering having a generator. Mrs. Turner replied that they are considering a generator. A motion to approve the application was made by Chairman Hillman, second by Mr. Flaherty, and passed unanimously.

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Chairman Hillman read the next agenda item:

EPC 16 - 2006, Salvatore and Jennifer Materia, 93 Mansfield Avenue, proposing drainage structures for new residence, retaining walls, filling, and wetland buffer restoration within a regulated area. The property is located on the west side of Mansfield Avenue approximately 100 feet south of the intersection of Roland Drive and Mansfield Avenue and is shown on Assessor's Map #17 as Lot #27.

The Commission scheduled this application for a public hearing because it may have a significant impact on the regulated area and because they received a petition of 25 signatures.

Chairman Hillman read the next agenda item:

EPC 19-2006, Bruce Hill, Esq. on behalf of Ian King, 78 Camp Avenue, proposing to restore an area of Town property previously disturbed and noticed as a violation. The work consists of removing topsoil and other materials and re-planting with native vegetation. The property is located on the north side of Camp Avenue approximately 600 feet east of the intersection of Camp Avenue and Hoyt Street and is shown on Assessor's Map #8 as Lot #275.

The Commission scheduled a public hearing for this application because it may have a significant impact and is in the public interest.

Chairman Hillman read the next agenda item:

EPC 21 -2006, Richard Windels, Jr., Friends of Goodwives River, Inc. on behalf of Joanne Nielsen, 34 Delafield Island Road, proposing to dredge approximately 0.35 acres of a portion of Nielsen Pond and Pony Pond and replant wetland vegetation. The property is located on the east side of Delafield Island Road approximately 1600 feet south of the intersection of Delafield Island Road and Locust Hill Road.

The Commission scheduled a public hearing for this application because it may have a significant impact and because it is in the public interest.

Ms. Cameron asked why this is being presented by the Friends of Goodwives River. Mr. Windels responded that this is a pond which is in very poor condition. He stated that they are proposing to provide a 10 foot wide buffer where there is now existing lawn.

Chairman Hillman read the next agenda item:

EPC 18- 2006, Claire O'Hare, 45 Brookside Road, proposing to repair a portion of a collapsed wall on the Goodwives River by hand work. The property is located at the northwest corner of Prospect Avenue and Brookside Road and is shown on Assessor's Map #15 as Lot #17

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Mr. Kenyon asked Mrs. O'Hare if this repair is only for a short section of the wall. Mrs. O'Hare stated that the repair is for a section of wall approximately 5 feet wide. A motion to approve the application was made by Chairman Hillman, seconded by Ms. Cameron and approved unanimously.

Chairman Hillman read the next agenda item:

Public Hearing at 8:35 p.m.

Chairman Hillman read the next agenda item:

EPC 89-2005, Mona Tjader Slack, 6 Runkenhage Road, requesting a permit for emergency repair of existing septic system within a regulated area. The subject property is located on the south side of Runkenhage Road, approximately 150 feet south of its intersection with Tokeneke Trail, and is shown on Assessor's Map #69 as Lot #33.

The applicant was represented by Bob Oley, P.E., from Land Tech Consulting and Tom Ryder from Land Tech Consulting. Mr. Oley said that they have provided the Commission with additional information including a soil survey by a soil scientist to verify the wetland locations. An as-built topographic survey has been provided and an amendment to the plan including piping the watercourse. He provided two plans: one shows the ditch not piped and the alternate plan shows the ditch being piped. The February 28th plan showing the ditch being piped, is the preferred plan. He said that they have designed a berm to direct the sheet flow to the drainage system so there is no flow to the Greene driveway. He said the pre and post development drainage calculations show the runoff from the grass as slightly more than the previous wooded area. Their attempt is to plant the area as a wooded area. The new plan has added more diversity to the planting plan.

Tom Ryder said that the new planting plan reduces the hemlocks and adds rhododendron, arrowwood, clethra, cedar and flowering dogwood. The intent of the design is to maintain the over-story, fill in the shrub layer and maintain the vegetative cover.

Chairman Hillman asked Mr. Oley if they have addressed the concerns of the neighbor. Mr. Oley said that they have discussed the project with Mr. Greene. He said that Mr. Greene now experiences ponding of water next to the catch basin. He said the cause appears to be a blockage in one of the pipes. The 6 inch pipe from the catch basin is not adequate by today's standards. The pipe should be a minimum of 12 inches. He said that piping the watercourse may alleviate some of the problem.

Mr. Hutchison asked what would be involved in replacing the pipe. Mr. Oley said that the pipe discharges now to Scott's Cove. Replacing the pipe would require an additional EPC Permit and possibly DEP approval.

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Mr. Flaherty asked if the plan will create any adverse impact on the adjacent property. Mr. Oley stated that there will be no impact on the adjacent property after the restoration of the woodland area.

Attorney Robert Maslan appeared representing Mr. Greene. He said that Mr. Greene had an application in the past to re-landscape and re-configure his driveway. He questioned the nature of the area before the area was filled and piped. He stated that they have received the revised plans but have not had an opportunity to hire an engineer to review them.

Chairman Hillman stated that applicants need to get documents into the Commission earlier. The Commission discussed the possibility of requiring in the Regulations that material be submitted 10 days prior to a meeting.

Mr. Maslan presented photos of the clogged drain and ponded area adjacent to the downstream catch basin.

Mr. Hutchison asked if the blockage in the pipe has been investigated in any way, for example, by using a camera. Mr. Maslan said that the Tokeneke Association maintains the drainage structures. He also said the responsibility to maintain the structures is not clear. Tokeneke requests easements for tying into drainage structures. Mr. Hutchison asked if they have tried to work with the Tokeneke Association and suggested that the Commission may need to get involved in the future with these drainage problems through the Association.

Mr. Maslan stated that he now has calculations which he can use to hire an engineer. He said that intuitively he thinks the wetland system upstream may have in the past absorbed some of the water that is now reaching the catch basin.

Mr. Hillman questioned whether the Commission should hire an independent engineer to review the application. Mr. Flaherty said that this is a septic system repair. He asked Mr. Maslan if they intend to have the plan and report reviewed by an engineer. Mr. Maslan said yes. Mr. Flaherty said that after two engineers review the plan, it may put off the need to have a third engineer.

Mr. Kenyon asked whose responsibility it is to fix the blockage or replace the pipes with a 12 or 15 inch pipe. Mr. Maslan said that most of the water is currently coming from the Slack property. Mr. Green said that they have requested the Tokeneke Association look into the drainage problem. He said they have dug out the catch basins in the past but they did not snake out the pipe. He said the Tokeneke Association suggested that a silt fence be placed on the Slack property to keep material out of the catch basin. He said he believes that Mrs. Slack has changed the grades and made it too steep. He says it has created a water problem that now freezes on the road.

Mr. Maslan said that the first septic system repair done two years ago did not work. He said Mr. Proto came up with the plan for the most recent repair.

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Mr. Hutchison asked if there were trees that were cut down for the first repair. Mr. Green said that a couple were cut down for the first repair but that many more were cut down for the second repair. Mr. Hutchison suggested that conditions after the replanting may be much better. Chairman Hillman stated that the drainage problem may not be in EPC authority. Mr. Maslan said he believes that the watercourse gives the Commission jurisdiction over the activity.

Chairman Hillman asked Mr. Oley what would happen if a third party engineer found that the Green problem was caused by Slack what would be the solution. Mr. Oley said he believes it is an excellent idea to get a third party review. He said the fill was brought in for the septic repair. The slope for the Green property is only a 3 to 1 slope. There is no increase in runoff from the Slack property. He said the problem is a blockage in the pipe. He said the Slack septic system repair has not made the matter worse.

Attorney Peter Ryan appeared representing Mrs. Slack. He said that Mrs. Slack is a servient owner of the right-of-way and that the dominant owner is the Greens. He said there is pending civil litigation which will be decided in April and some of the issues in front of the EPC may be part of this civil litigation.

Mr. Maslan stated that he has no involvement with the civil matter. He said the civil matter has nothing to do with the drainage or water problems.

Mr. Flaherty suggested that in the future a subcommittee of the Commission may be required to work with the parties and the Tokeneke Association. The Commission was informed that there are no additional extensions to continue the public hearing. A motion to close the hearing was made by Chairman Hillman, seconded by Mr. Kenyon. The motion passed 5-0. Mr. Hutchison abstained.

Chairman Hillman read the next agenda item:

EPC 2-2006, Laurie Stuek, 22 Driftway Lane, proposing demolition of the existing residence and construction of a replacement building and modified driveway and related site development activity within a regulated area. The property is located on the east side of Driftway Lane approximately 1300 feet south of Tokeneke Road and is shown on Assessor's Map #66 as Lot #122.

The Commission continued this public hearing to March 22nd.

Chairman Hillman read the next agenda item:

EPC 92-2005, William W. Seymour & Associates on behalf of Kent & Lisa Eppley, 20 Driftway Lane, proposing to construct a two-story garage and perform related site development activities within a regulated area. The subject property is located on the east side of Driftway Lane,

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approximately 200 feet northeast of its intersection with Tokeneke Road, and is shown on Assessor's Map #66 as Lot #121.

The Commission continued this public hearing to March 22nd. Michael Fishman of Stearns and Wheler represented the applicant. He said he believes they have addressed all of the comments from the Commission in their most recent submission.

Chairman Hillman read the next agenda item:

EPC 3-2006, Christopher and Debra Seiter, 459 Mansfield Avenue, proposing to construct a swimming pool within a regulated area. The property is located on the west side of Mansfield Avenue approximately 800 feet north of Half Mile Road and is shown on Assessor's Map #2 as Lot #34-3.

The Commission continued this public hearing to March 22nd. Mr. Brandon Jones representing the applicant submitted additional information.

Chairman Hillman read the next agenda item:

EPC 4-2006, John B. Ward, 32 Beach Drive, proposing repair/replacement of existing sea wall with associated excavation and filling within a regulated area. The subject property is located on the west side of Beach Drive approximately 300 feet south of the intersection of Outlook Drive and Beach Drive and is shown on Tax Assessor's Map 53 as Lot 6.

Mr. Flaherty stated that the applicant's representative is sometimes retained by his firm, Redniss & Mead. He said that he can be a fair and impartial judge on this application.

John Roberge of Coastal Engineers represented the applicant. The proposed project is a concrete and stone seawall approximately 63 feet in length with 10 foot and 18 foot returns. There is an existing boat ramp, a portion of which is proposed to be removed. The applicant proposes to replace the wall and demolish 5 feet of the boat ramp and overtop the remainder of the ramp with concrete.

Chairman Hillman stated that Holly Pond is a sensitive wetlands system. Mr. Roberge provided photos showing spartina alterniflora on a portion of the Ward property. He said the neighbor's property is higher in elevation and sustains more spartina alterniflora and some phragmites. Their intention is to encourage growth of spartina at the end of the Ward boat ramp.

Ms. Cameron asked if there would be a buffer at the top of the wall. Mr. Roberge stated that planting low shrubs at the top of the wall would be a good idea.

A motion to close the public hearing was made by Chairman Hillman, seconded by Ms. Cameron and passed unanimously. A motion to approve the application was made by Chairman Hillman and require a 5 foot border and seconded by Ms. Cameron. The motion passed unanimously.

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Chairman Hillman read the next agenda item:

EPC 5-2006, S.E Minor & Co., Inc. on behalf of James & Susan Brewer, 98 Ridge Acres Road, proposed filling and regrading within 50 feet of a regulated area. The subject property is located on the east side of Ridge Acres Road approximately 700 feet north of the intersection of Highview Road and Ridge Acres Road and is shown on Tax Assessor's Map #4 as Lot #46

Ms. Cameron said that she sits on the Land Trust with Mrs. Brewer and does not feel that she has any conflict of interest on this application. Mr. James Brewer said he has no objection to Ms. Cameron sitting on the application.

Mr. Len Chesney of S.E. Minor represented the applicant. He said there is a positive aspect of this project which is the new septic system. Chairman Hillman asked him if he has any experience with living filters. Mr. Chesney answered yes, including the Redding Inn. He said the only problem is sometime supplying the components. Ms. Cameron asked if there is a significant difference between a restaurant versus a home system. Mr. Chesney answered that yes, there is much more grease involved in a restaurant system.

Mr. Chesney stated that the application will decrease the impervious area on the property and generate less runoff. They are proposing to collect the runoff in a sump. Mr. Flaherty asked if the roof leaders will be discharged at grade. Mr. Chesney answered yes. Mr. Flaherty asked about the footing drains. Mr. Chesney said that was unknown at this time. Mr. Flaherty believes they are creating a point source discharge and asked Mr. Chesney what can be done at the outlet. Mr. Chesney answered that the flow will not go over the lawn and collect pollutants. They are willing to stipulate that the flow be placed into underground storage with a high level of overflow. Mr. Flaherty said it would be preferable to have surface bioretention at the outlet. Mr. Chesney stated that would be possible and the treatment basin will be sized for one inch of storm water runoff.

Mr. Flaherty stated that he believes the septic system is pushing the edge toward the 50 foot setback. The stone wall appears to be acting like a retaining wall. A five bedroom house would eliminate some of the fill. Mr. Chesney said he believes the wall as graphically depicted is too wide. They will be willing to stipulate that the wall not be used as a retaining wall and will grade accordingly. The high point of the fill is well away from the watercourse and the edge of fill is 30 feet away from the watercourse.

Mr. Brewer stated that the home is only supposed to be five bedrooms. Mr. Mike Buzzeo, contractor, said that the application was submitted as a six bedroom in case one of the other rooms was considered as a bedroom.

Mr. Kenyon requested a stipulation that the swing set in the middle of the regulated area be moved out of the 50 foot setback. Chairman Hillman asked if members of the public had any comments. Nancy Sheed said she is a down gradient neighbor behind the stone wall and asked

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about the proposed grade changes. Mr. Chesney said that the new grade will meet the bottom of the wall adjacent to the Sheed property. Mr. Flaherty requested a stipulation that the grade along the easterly property line will not change. He also recommended that Vince Proto of the Health Department review the plans again for a five bedroom home. The Commission closed the public hearing. Deliberations. The Commission requested that staff draft a resolution, including a planting plan, to replace the tree which was removed within the regulated area and other stipulations suggested during the public hearing. Chairman Hillman requested a note of approval of modular homes and approval of the trend toward modular homes.

Chairman Hillman read the next agenda item:

EPC 11-2006, Charles & Brook McIlvaine, 57 Nearwater Lane, proposing partial demolition of an existing residence, additions to the residence and driveway with associated development activities within the regulated area. The subject property is located on the west side Nearwater Lane approximately 500 feet north of the intersection of Nickerson Lane and Nearwater Lane and is shown on Tax Assessor's Map #52 as Lot #21.

Sean O'Kane represented the applicant. He said the existing house was built in 1856. There is a specimen beech tree 100 to 120 years old which they have avoided during the design process.

Brook McIlvaine said that the existing house is non-conforming. No impacts are proposed to the wetlands but the new addition will be close to the wetland. Approximately half of the wetland area on the property is modified lawn.

Mr. O'Kane said that the runoff from the site is being controlled. Ms. Cameron asked if there could be gravel under the proposed terrace. Mr. O'Kane said that it could be gravel. Mr. Flaherty asked what the net change of impervious surface is. Mr. O'Kane answered that pre-development is 5,946 square feet and post development is 6,244 square feet. Chairman Hillman asked if there is any impervious area in the regulated area that can be removed.

Mr. O'Kane said a positive impact from the proposal is to abandon the existing septic system which is in the wetland and tie into the Town sewer line.

Mr. Flaherty asked if there was any soil testing done in the proposed detention area. The proposed infiltrators are very close to the wetland and there is potential for high ground water. He said a crushed stone driveway would not be practical on the steep slopes. The applicant should consider grass pavers instead of pavement. He said the consideration of the beech tree is important when designing the driveway location.

The applicant will provide additional information including a functional assessment of the wetlands, a planting plan to improve the wetlands. They will also ask an engineer to review the storm water treatment and investigate above ground storm water storage.

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Mr. O’Kane asked the Commission if they could provide a report to the Zoning Board of Appeals that the Environmental Protection Commission will not approve anything which is closer to the wetland. The Chairman said that Mr. O’Kane could represent to the ZBA that it is a consensus among the Commission that they would not approve the house closer to the wetland.

Motion to adjourn by Mr. Kenyon. Second by Mr. Hutchison. Passed unanimously. The meeting was adjourned at 10:40 p.m.